

A/RE

08/05/99

Jc135 U.S. PTO

Practitioner's Docket No. 498-18 DIV/RES

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Date: 8/5/99

Assistant Commissioner for Patents  
Washington, D.C. 20231Jc135 U.S. PTO  
08/05/99  
09/368848

## REISSUE APPLICATION TRANSMITTAL

Transmitted herewith is the application for reissue of U.S.

☒ Utility Patent    ☐ Plant Patent    ☐ Design Patent  
 No. 5,653,746 issued on August 5, 1997

Inventor(s): Schmitt, Peter J.

Title: Radially Expandable Tubular Prosthesis

Enclosed are the following:

## 1. Specification, claim(s) and drawing(s) (37 C.F.R. § 1.173)

- (a) ☒ 8 page(s) of specification  
☒ 4 page(s) of claims  
☒ 1 page(s) of abstract

NOTE: This must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets. Any additions made by the reissue must be underlined, so that the old and new specifications and claims may be readily compared. Claims should not be renumbered. The numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification. (37 C.F.R. § 1.173).

## CERTIFICATION UNDER 37 C.F.R. § 1.10\*

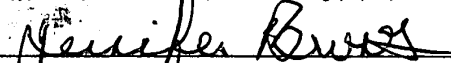
(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this Reissue Application Transmittal and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date August 5, 1999, in an envelope as "Express Mail Post Office to Addressee," mailing Label Number EJ279941065US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Jennifer Bruns

(type or print name of person mailing paper)



Signature of person mailing paper

**WARNING:** Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

**\*WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Reissue Application Transmittal [17-1]—page 1 of 6)

(b) ☒ 5 sheet(s) of drawing (drawings amended)

☐ Formal

☒ Informal

NOTE: "Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted." 37 C.F.R. § 1.174(b).

☒ No changes in the drawings, upon which the original patent was issued, are to be made. Therefore, in accordance with 37 C.F.R. § 1.174(a), please find attached, in the size required for original drawings:

☐ a copy of the printed drawings of the patent.

☐ a photoprint of the original drawings.

☒ A letter requesting transfer of the drawings from the original patent file to this reissue application is attached.

**2. Declaration and power of attorney**

☒ 6 pages of declaration and power of attorney

**3. Preliminary amendment**

(check, if applicable)

☐ Attached

**4. Offer to surrender the original letters patent in accordance with 37 C.F.R. § 1.178 is attached.**

☒ Offer to surrender is by the inventor

☒ along with assent of assignee.

☐ Offer to surrender is by the assignee of the entire interest (and the reissue application does not seek to enlarge the claims of the original patent).

**5. Letters patent**

☒ Original letters patent are attached.

☐ Declaration that original letters patent lost or inaccessible is attached.

☐ A copy of the original printed patent is attached.

NOTE: "The application may be accepted for examination in the absence of the original patent or the declaration but one or the other must be supplied before the case is allowed." 37 C.F.R. § 1.178.

NOTE: "Where the original patent grant is not submitted with the reissue application as filed, patentee should include a copy of the printed original patent. Presence of a copy of the original patent is useful for the calculation of the reissue filing fee and for the verification of other identifying data." M.P.E.P., § 1416, 7th ed.

NOTE: "If a reissue be refused, the original patent will be returned to applicant upon his request." 37 C.F.R. § 1.178.

(Reissue Application Transmittal [17-1]—page 2 of 6)

6. Petition to proceed without assignee's assent

☐ Attached hereto is a "PETITION TO PROCEED WITH REISSUE APPLICATION WITHOUT ASSIGNEE'S ASSENT".

A. ☐ The fee payment is authorized in the attached:

☐ "REISSUE APPLICATION TRANSMITTAL" Form

☐ "COMPLETION OF FILING REQUIREMENTS — REISSUE APPLICATION" Form.

B. ☐ Payment is authorized below.

7. Information Disclosure Statement

☐ Attached

☐ Copies of the IDS citation(s) is/are attached.

8. Priority—35 U.S.C. § 119

☐ Priority of application Application No. 0 / \_\_\_\_\_, filed on \_\_\_\_\_, in \_\_\_\_\_ is claimed under 35 U.S.C. § 119.  
Country

☐ The certified copy has been filed in prior application Application No. 0 / \_\_\_\_\_ filed on \_\_\_\_\_

9. Basic Filing Fee Calculation (37 C.F.R. § 1.16(h), (i) and (j))

CLAIMS AS FILED			
Number Filed	Number Extra	Rate	Basic Fee (37 C.F.R. 1.16(h)) \$760.00
Total Claims (37 C.F.R. § 1.16(j))	21	— 20 (and also in excess of total claims in patent) X \$18.00	18.00
Independent Claims (37 C.F.R. § 1.16(i))	6	— (number of inde- pendent claims in patent) X \$78.00	468.00
Filing fee Calculation			\$ 1,246.00

NOTE: Multiple dependent claims are treated as ordinary claims for fee purposes. 37 C.F.R. § 1.16(j).

(Reissue Application Transmittal [17-1]—page 3 of 6)

**10. Small Entity Status (if applicable)**

**NOTE:** A new statement is required for the reissue, even if one has been filed in the original patent. 37 C.F.R. § 1.27(a).

**WARNING:** "Small entity status must not be established when the person or persons signing the . . . statement can unequivocally make the required self-certification." M.P.E.P. § 509.03, 6th ed., rev. 2, July 1996 (emphasis added).

- ☐ A statement that this filing is by a small entity is  
☐ attached.

Filing Fee Calculation (50% of above) \$ \_\_\_\_\_

**NOTE:** If a statement is filed within 2 months of the date of timely payment of a fee, then the excess fee paid will be refunded on request. 37 C.F.R. § 1.28(a). Effective April 1, 1984.

**11. Additional Fee Payments**

- ☐ Payment is being made for "PETITION TO PROCEED WITH REISSUE APPLICATION WITHOUT ASSIGNEE"  
(37 C.F.R. § 1.17(h)) . . . . . \$130.00

**12. Total Fees Due**

Filing Fee	\$1,246.00
Petition fee	\$ _____
<b>Total Fees Due</b>	<b>\$ _____</b>

**13. Method Of Payment of Fees**

- ☒ Enclosed is a check in the amount of \$ 1,246.00.  
☐ Charge Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached.

**NOTE:** Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. § 1.22(b).

**14. Authorization To Charge Additional Fees**

**WARNING:** If no fees are to be paid on filing, the following items should not be completed.

**WARNING:** Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

- ☒ The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 08-2461 :

☒ 37 C.F.R. § 1.16(a), (f) or (g) (filing fees)

☒ 37 C.F.R. § 1.16(b), (c) and (d) (presentation of extra claims)

**NOTE:** Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. § 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

☒ 37 C.F.R. § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☒ 37 C.F.R. § 1.17(a)(1)-(5) (extension fees pursuant to § 1.136(a)).

☒ 37 C.F.R. § 1.17 (application processing fees)

**NOTE:** "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under § 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in § 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. § 1.136(a)(3).

**NOTE:** "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. § 1.26(a).

☐ 37 C.F.R. § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b))

**NOTE:** Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. § 1.311(b).

**NOTE:** See 37 C.F.R. § 1.28.

**15. ☐ Additional Enclosures**

**Customer No.:**

**SIGNATURE OF PRACTITIONER**

Salvatore J. Abbruzzese  
(type or print name of practitioner)

Hoffmann & Baron, LLP  
P.O. Address

6900 Jericho Turnpike  
Syosset, New York 11791

[illegible]


### ASSENT OF ASSIGNEE TO REISSUE

The undersigned, assignee of the entire interest in the above-mentioned letters patent, hereby assents to the accompanying application.

### STATEMENT BY ASSIGNEE

- ☒ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Date: Aug 4, 1999

  
Signature of assignee;  
(type or print name of signatory and title if signing  
on behalf of an entity)

David L. Cavanaugh  
Senior Patent Counsel

LIMITED AUTHORIZATION TO ACT ON BEHALF OF ASSIGNEE  
REGARDING CERTAIN PATENT MATTERS  
EFFECTIVE THROUGH: December 31, 1999

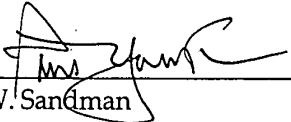
\*\*\*\*\*

I, Paul W. Sandman, as Senior Vice President, Secretary, and General Counsel of Boston Scientific Corporation, the controlling corporation of:

Scimed Life Systems, Inc., Boston Scientific Corporation Northwest Technology Center, Inc.; Symbiosis Corporation; Meadox Medicals, Inc.; E.P. Technologies, Inc.; Cardiovascular Imaging Systems, Inc.; BSC Technology, Inc.; Boston Scientific Technology, Inc.; Scimed Technology, Inc.; Meadox Technology, Inc.; Boston Scientific, Limited; Boston Scientific Ireland, Limited; Corvita Corporation; Cardiovascular Innovations Canada, Inc.; Corvita Europe S.A.; Corvita Canada, Inc.; Laboratoires Corvita S.A.R.L.; Schneider (Europe) GmbH; Nilo Holding, S.A.; AMS Medinvent S.A.; Schneider Belgium NV; Schneider Holland BV; Schneider (USA), Inc.; Schneider/NAMIC; Schneider Puerto Rico; NAMIC Eireann Limited; NAMIC International, Inc.; Schneider Ireland BV; and Target Therapeutics, Inc.,

hereby authorize the following registered patent attorneys/agents (1) to act on behalf of any of the corporations identified above, including Boston Scientific Corporation, with regard to any matters before the United States Patent and Trademark Office, any foreign patent offices, and any international patent entities, (2) to execute power of attorney documents on behalf of any of the corporations identified above, including Boston Scientific Corporation, to appoint and/or establish any attorneys, agents, and/or law firms to act on behalf of any of the corporations identified above, including Boston Scientific Corporation, in any foreign or international patent applications filed with any foreign and/or international patent offices, and (3) to execute assignment and ownership documents on behalf of any of the corporations identified above, including Boston Scientific Corporation, with regard to any matters before the United States Patent and Trademark Office, any foreign patent offices, and any international patent offices:

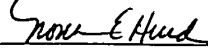
Mark J. Casey ..... Reg. No. 37,796  
David L. Cavanaugh ..... Reg. No. 36,476  
Luke R. Dohmen ..... Reg. No. 36,783  
Peter J. Gafner ..... Reg. No. 36,517  
Patricia LaMarche-Davis ..... Reg. No. 37,866  
(Also known as Patricia Davis or Patricia A. Davis)  
Todd P. Messal ..... Reg. No. 42,883  
Robert M. Rauker ..... Reg. No. 40,782  
William J. Shaw ..... Reg. No. 43,111

  
Paul W. Sandman  
Senior Vice President, Secretary, and General Counsel

Jan. 6, 1999  
Date

COMMONWEALTH OF MASSACHUSETTS )  
 ) ss.  
COUNTY OF MIDDLESEX )

On this 6th day of January, 1999 before me personally appeared Paul W. Sandman to me known and known to me to be the person described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for the uses and purposes set forth herein.

  
Notary Public **NONA E. HURD**  
**NOTARY PUBLIC**  
My Commission Expires Oct. 4, 2002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Peter J. Schmitt

Patent No.: 5,653,746

(Serial No.: 08/462,230)

Issued: August 5, 1997

(Filed: June 5, 1995)

For: RADIALLY EXPANDABLE  
TUBULAR PROSTHESIS

Docket: 498-18 DIV/RES

Date 8/5/99 Label No. EJ27994165US

I hereby certify that on the date indicated above I deposited this  
paper or fee with the U.S. Postal Service and that it was addressed  
for delivery to the Assistant Commissioner for Patents,  
Washington, D.C. 20231 by EXPRESS MAIL. Post Office to  
Addressed Service.

Signature Jennifer Bruns Jennifer Bruns

Assistant Commissioner for Patents  
Washington, DC 20231

STATEMENT UNDER 37 C.F.R. §3.73(b)

Meadox Medicals, Inc., states that it is the assignee of the entire right, title, and interest in the above-identified patent application, by virtue of an assignment from the inventors of the application identified above. The assignment was recorded in the U.S. Patent and Trademark Office on January 14, 1993 at Reel 6397/Frames 0432-0435. It is respectfully noted that Boston Scientific Corporation, a Delaware corporation is the controlling corporation of Meadox Medicals, Inc.

The undersigned is empowered to sign this statement on behalf of the assignee, as evidenced by the attached authorization form.

Respectfully submitted,

Date: Aug. 4, 1999

David L. Cavanaugh  
David L. Cavanaugh  
Senior Patent Counsel  
Registration No.: 36,476

HOFFMANN & BARON, LLP  
6900 Jericho Turnpike  
Syosset, New York 11791  
(973) 331-1700

(Rev. 12-97) Pub. (25)

FORM 17-2

17-13

Practitioner's Docket No. 498-18 DIV/RES

**PATENT**

**REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER  
(37 C.F.R. § 1.178)**

To the Assistant Commissioner for Patents:

1. The undersigned applicant of the accompanying reissue application for the reissue of letters patent for the improvement in Radially Expandable Tubular Prosthesis  
Patent number 5,653,746 granted to him/her on August 5, 1997 of which

☐ he/she is now sole owner,

☒ Meadox Medicals, Inc.

is now sole owner by assignment, and on whose behalf and with whose assent the accompanying application is made,

☒ The "ASSENT BY THE ASSIGNEE" to this reissue application is attached.

Date: 8/4/99

Signature(s)

Peter J. Schmitt

(Type or print name(s))

**CERTIFICATION UNDER 37 C.F.R. § 1.16\***

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date August 5, 1999 in an envelope as "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10. Mailing Label Number EJ279941065US, addressed to the: Assistant Commissioner for Patents, Washington, D.O. 20231.

Jennifer Bruns

(Type or print name of person mailing paper)

Signature of person mailing paper

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(Reissue Application by the Inventor, Offer to Surrender (37 C.F.R. § 1.178)—Assent of Assignee (17-2)—page 1 of 2)